of fourteen years in a factory. Any violation of the statute was punishable as a misdemeanor. *Held*, that the unlawful employment was in itself negligence, and subjected the defendant to a civil liability. *Marino* v. *Lehmaier* (1903), — N. Y. —, 66 N. E. Rep. 572.

In support of its decision, the court cites: *Willy* v. *Mulledy*, 78 N. Y. 310, 34 Am. Rep. 536; *Pauley* v. *Lantern Co.*, 131 N. Y. 90, 29 N. E. 999, 15 L. R. A. 194; *Huda* v. *Am. Glucose Co.*, 154 N. Y. 474, 48 N. E. 897, 40 L. R. A. 411; *Stewart* v. *Ferguson*, 164 N. Y. 553, 58 N. E. 662. But in the above cases actual negligence was present and the injured party could recover at common law irrespective of statutory regulations. In the principal case, the plaintiff's injury was unexplained. No negligence on the part of the defendant was shown. It appears, therefore, that the decision in the principal case goes further than any of the other cases in holding that the mere employment of the plaintiff in violation of the statute was proof of actual negligence.

PATENTS—UTILITY—RIGHT TO INJUNCTION.—A invented a bogus coin-detector for use in coin-operated vending machines. The patent having been assigned to the complainant, it was used by his licensee in gambling devices. The defendants, without license, applied the invention to gambling machines of their own make. In a suit to enjoin the defendants from so using the device, *Held*, that the complainant is entitled to the remedy. *Fuller* v. *Berger* (1903), — C. C. A. —, 120 Fed. Rep. 274.

The defenses to the suit were (1) that the patent is void for want of utility, (2) that the complainant has no standing in equity because he does not come into court with clean hands, since the suit is brought to prevent the defendant from interfering with illegal practices of the licensee. As to the first defense, the court concluded that utility is not negatived by an evil use, when it is apparent that the invention can be used for legitimate purposes; quoting WALKER ON PATENTS, sec. 82 (3d ed.). The second defense was also disposed of by the majority—Judge Grosscup rendering a strong dissenting opinion,—on the ground (1) that upon a mere showing that the complainant has committed some legal or moral offense which affects the defendant only as it does the public at large, the court must grant the equitable remedy and leave the punishment of the offender to other forums; (2) that where the complainant seeks merely to enforce his right to exclude others, an inquiry into the use made of the patent by the owner is irrelevant. *Brown Saddle Co.* v. *Troxel*, 98 Fed. 620; *National Folding Box and Paper Co.* v. *Robertson*, 99 Fed. 985, and cases there considered. The dissenting judge took the ground that the public being a party to the patent, the writ will not issue to enforce the rights under a patent of one who uses those rights to the detriment of public morals. That equity will not refuse relief because of general misconduct, see POMEROY'S EQUITY JURISPRUDENCE, vol. 1, sec. 399. But equity will not enforce a contract or aid a transaction which is against public policy; idem, vol. 1, sec. 402.

PLEADING—VARIANCE.—The plaintiff took out a writ in trespass on the case: his declaration was in trespass. *Held*, that the variance was fatal, that the declaration could not be amended, and that advantage could be taken of the variance at any stage of the case. *Slater* v. *Fehlberg* (1903), — R. I. —, 54 Atl. Rep. 383.

Stevens says the rule is of high antiquity that the declaration must conform to the original writ. ANDREW'S STEVENS' PLEADING, p. 416; *Young* v. *Watson*, Cro. Eliz. 308. The rule has been adopted by early cases in the United States; *Nichols* v. *Nichols* 10 Wend. 630; *Ridder* v. *Whitlock*, 12